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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

IN RE: REALPAGE, INC.,	)	Case No. 3:23-md-3071
RENTAL SOFTWARE ANTITRUST	)	MDL No. 3071
LITIGATION (NO. II)	)	

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BEFORE THE HONORABLE  
CHIEF DISTRICT JUDGE WAVERLY D. CRENSHAW, JR.

TRANSCRIPT OF PROCEEDINGS

February 16, 2024

- - - - -

PREPARED BY:  
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1   **For the Plaintiffs:**

2

3   Tricia Herzfeld  
4   Swathi Bojedla  
5   Patrick Coughlin  
6   Tricia Herzfeld  
7   Stacey Slaughter  
8   Geoff Kozen

9   **For the Defendants:**

10   Stephen Medlock  
11   Ferdose al-Taie  
12   Carl Hittinger  
13   Jay Srinivasan  
14   Robert Taylor  
15   Becky Caruso  
16   Chris Thorsen  
17   Steven Chris Whittaker  
18   Alyse Stach  
19   Michael McCambridge  
20   Bethan Carroll  
21   Ben Campbell  
22   Boris Bershteyn

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1           The above-styled cause came on to be heard on  
2 February 16, 2024, before the Honorable Waverly D.  
3 Crenshaw, Jr., Chief District Judge, when the following  
4 proceedings were had, to-wit:

5           THE COURT: All right. We're on the record. This  
6 is Waverly Crenshaw. I notice that a number of other people  
7 have joined the line. That's just fine. I have a court  
8 reporter. So if you'll -- if you'll identify who is on the  
9 line. And let me remind everyone there is to be no recording  
10 of this conversation. The transcript is available if you  
11 want it.

12           MS. BOJEDLA: Your Honor, for the plaintiff, my  
13 co-counsel Pat Coughlin and Stacey Slaughter are on. And  
14 I've also asked Geoff Kozen to be on, who is responsible for  
15 the deposition protocol negotiation.

16           THE COURT: All right. Thank you.  
17           Anybody else here for the plaintiff?

18           MS. HERZFELD: Tricia Herzfeld, Your Honor.

19           THE COURT: All right. Mr. Medlock, do you know  
20 who is on here for the defense?

21           MR. MEDLOCK: I don't with entire clarity, Your  
22 Honor. I know that my colleague Michael McCambridge also  
23 from Vinson & Elkins is on. I'll let my other codefense  
24 counsel introduce themselves.

25           MR. SRINIVASAN: Sure. Your Honor, you have Jay

1 Srinivasan and Chris Whittaker on for RealPage to address the  
2 expert stipulations if questions come up on that.

3 MR. HITTINGER: And, Your Honor, this is Carl  
4 Hittinger and Alyse Stach from Baker Hoestettler representing  
5 Equity. We handled the deposition protocol order.

6 MS. AL-TAIE: Your Honor, this is Ferdose al-Taie,  
7 F-e-r-d-o-s-e a-l-T-a-i-e, representing ZRS Management. With  
8 me is Chris Thorsen and Bethany Carroll.

9 MR. CAMPBELL: Your Honor, this is Ben Campbell  
10 with Morrison & Foerster, representing UDR.

11 MR. BERSHTEYN: Your Honor, it's Boris Bershteyn  
12 from Skadden, Arps, representing Greystar.

13 MS. CARUSO: Your Honor, this is Becky Caruso  
14 from Greenberg Traurig, representing Lincoln Properties.

15 THE COURT: All right. Anybody on the line who  
16 didn't identify themselves?

17 MR. TAYLOR: Yes, Your Honor. This is Robert  
18 Taylor, from Weil, Gotshal & Manges. I'm representing  
19 Brookfield Multifamily, LLC.

20 THE COURT: Is that everyone?

21 All right. So I want to go first to the ESI  
22 order, paragraph 3a. I've added -- "And with regards to  
23 discovery liaisons each party agrees to designate a discovery  
24 liaison within 14 days after entry of this order, and I  
25 added, "and they should give notice of that designation filed

1 with the Court," so the Court's kept abreast of who's in  
2 what -- what function.

3 And the same is true, if there's a change in the  
4 designation, I've added, "give written notice to the other  
5 parties and the Court."

6 If anyone -- does anyone have any problems with  
7 that change?

8 Let me go to Mr. Medlock and Ms. Swathi Bojedla.

9 MR. MEDLOCK: Nothing from defendants on that,  
10 Your Honor.

11 MS. BOJEDLA: No, Your Honor. That's --

12 THE COURT: All right. Let's go to paragraph 4,  
13 Cooperation. "The parties agree to engage in ongoing good  
14 faith meet and confer discussions on ESI as necessary." And  
15 I added the following phrase: "And the parties understand  
16 that such each meet and confer is a prerequisite to seeking  
17 the Court's assistance."

18 Is that okay with the plaintiff?

19 MS. BOJEDLA: Yes, Your Honor.

20 THE COURT: And Mr. Medlock?

21 MR. MEDLOCK: Yes, Your Honor.

22 THE COURT: Paragraph 7, the second sentence, "The  
23 parties agree to meet and confer in good faith." Correct,  
24 Mr. Medlock?

25 MR. MEDLOCK: Yes, Your Honor.

1 THE COURT: And Ms. Bojedla?

2 MR. MEDLOCK: Thank you for correcting that, Your  
3 Honor.

4 THE COURT: All right. Then let's go to paragraph  
5 14c and 14f. So the Court has considered your filings and  
6 the modified language. And I'm going to read to you the  
7 language I'm going to go with.

8 Regarding 14c:

9 "Emails containing privileged information may be  
10 included in a privilege log as the most inclusive version of  
11 the email thread that is available as long as there is a  
12 claim of privilege for the entirety of the email thread and  
13 attachments. Otherwise, the email shall be produced in  
14 redacted format. The parties agree to meet and confer in  
15 good faith regarding any disagreement."

16 Does -- Ms. Bojedla, do you want me to read that  
17 again?

18 MS. BOJEDLA: If you wouldn't mind, Your Honor.  
19 I'm trying to take --

20 THE COURT: Okay.

21 14c: "Emails containing privileged information may  
22 be included in a privilege log as the most inclusive version  
23 of the email thread that is available as long as there is a  
24 claim of privilege for the entirety of the email thread and  
25 attachments. Otherwise, the email shall be produced in

1 redacted format and the parties agree to meet and confer in  
2 good faith regarding any disagreement."

3 Mr. Medlock, were you able to follow that?

4 MR. MEDLOCK: Yes, I was, Your Honor.

5 THE COURT: All right. Any issues with that  
6 language from the plaintiff?

7 MS. BOJEDLA: May I just request a clarification  
8 on the language? The second clause reads, "Otherwise the  
9 email shall be produced in redacted format, goes on, does  
10 that also mean that if not every portion of the email chain  
11 and attachments is privileged, if -- if one part of it is not  
12 privileged then they would be required to log everything in  
13 the chain and the attachment?

14 THE COURT: Say that again.

15 MS. BOJEDLA: So, for example, if there's an email  
16 thread of ten emails and an attachment and the first email  
17 and attachment are not privileged and the rest are claimed to  
18 be privileged, would the defendant be required to log the  
19 nine nonprivileged emails? I'm sorry. The nine emails that  
20 were claimed to be privileged?

21 The only reason I ask, Your Honor, is if we get  
22 the redacted version of just the ten emails then we don't  
23 know what's going on with the prior -- the following emails,  
24 and it comes back to the same thing we were raising in our --  
25 in our statement.

1           THE COURT: All right. Mr. Medlock, what do you  
2 say?

3           MR. MEDLOCK: Well, Your Honor, I just -- I don't  
4 understand why that would be necessary. In the --

5           THE COURT: No. No. No. What do you say to the  
6 information, the wording that I provided you for 14c?

7           MR. MEDLOCK: Oh, sorry, Your Honor. We have no  
8 objection to your wording. I apologize.

9           THE COURT: Okay. Ms. Bojedla, can you restate  
10 what your concern is, I guess with the language that I just  
11 read?

12           MS. BOJEDLA: Sure. So the way that the language  
13 you read -- it's our (indiscernible) understanding is so the  
14 defendants are not required to log an email chain if they  
15 claim that all of the emails in the chain are privileged.

16           THE COURT: No. I don't think you're  
17 understanding. I'm not going to -- I think this language is  
18 satisfactory. Again, it says emails containing privilege  
19 information may be included in a privilege log as the most  
20 inclusive version of the email thread that's available as  
21 long as there is a claim of privilege for the entirety of the  
22 email thread and attachments. Otherwise, the email shall be  
23 produced in redacted form.

24           MS. BOJEDLA: Okay.

25           THE COURT: I don't see the problem.



1 MS. BOJEDLA: Okay.

2 THE COURT: So that's -- that's what I propose for  
3 14c.

4 For 14f, here is the language I propose:

5 "A party shall only be required to include one  
6 entry on the privilege log to identify each family of  
7 documents that are withheld in their entirety for privilege  
8 (parent and children) taken together, (family provided,  
9 however, that the privilege log entry for any family shall  
10 identify that the documents are part of a family, e.g., email  
11 and attachments) and provide the names and a brief  
12 description of the attachments in a separate field. If only  
13 a portion of a family of documents contains privilege  
14 information, the family should be produced in redacted form.  
15 The parties agree to meet and confer.

16 Do you want me to read that again, or were you  
17 able to get it the first time?

18 MS. BOJEDLA: I think -- I think that one I was  
19 able to get in large part.

20 Thank you, Your Honor.

21 THE COURT: Mr. Medlock, do you want me to -- I  
22 don't mind reading it again.

23 MR. MEDLOCK: That's all right, Your Honor. I  
24 followed.

25 THE COURT: Okay. Any issues with that language

1 with the plaintiff?

2 MS. BOJEDLA: I think I understand Your Honor's  
3 language here.

4 THE COURT: So does the plaintiff have any issues  
5 with that?

6 MS. BOJEDLA: No, no issues.

7 THE COURT: Okay. Mr. Medlock?

8 MR. MEDLOCK: No issues, Your Honor.

9 THE COURT: Okay. So that takes care of the ESI  
10 order. And then -- this is a -- this is a universal  
11 question. Why wouldn't these orders be applicable to all  
12 cases? What does the plaintiff say?

13 MS. BOJEDLA: Your Honor, we do believe they're  
14 applicable to all cases. The only reason we have the cases  
15 named in the caption of the order is the issue we had raised  
16 in the plaintiffs' (indiscernible) report about the cases  
17 that remain (indiscernible) even though no plaintiffs remain.  
18 And so until that -- those cases come off of the docket or  
19 are terminated we just named the live -- the cases that are  
20 live and part of the amended complaint.

21 THE COURT: Is that the cases that you all are  
22 going to give me an order on the 20th?

23 MS. BOJEDLA: Correct.

24 THE COURT: Okay. Well, I'm going to change all  
25 this to say all cases. I don't want any party to be confused

1 that -- that -- about what they need to be in compliance  
2 with.

3 So that takes me to the order regarding deposition  
4 protocol. Paragraph I -- Ia. Do you all have a time period  
5 that the parties will meet and confer regarding limits on  
6 depositions and submit a supplemental?

7 MS. BOJEDLA: Your Honor --

8 MR. MEDLOCK: Your Honor, this is --

9 MS. BOJEDLA: Sorry.

10 THE COURT: Let's start with the plaintiff. Have  
11 you all got a time period for that to occur?

12 MS. BOJEDLA: We are -- we are -- when we  
13 discussed this with defendants, our goal is to get the  
14 initial disclosures, see what those initial disclosures look  
15 like, and then talk about the deposition limits, because they  
16 will be tethered to what we find out in those initial  
17 disclosures.

18 So I believe Your Honor's schedule is setting the  
19 deadline for those coming up here pretty soon. I'm hopeful  
20 we could get an agreed upon set of limits or opposing views  
21 in March.

22 THE COURT: What does the -- Mr. Medlock, what do  
23 you say?

24 MR. MEDLOCK: Your Honor, I'll pass this one over  
25 to Mr. Hittinger, who I believe is leading the deposition

1 protocol effort for us.

2 MR. HITTINGER: Your Honor, can I ask you to  
3 repeat the question please? I'm sorry.

4 THE COURT: Okay. Paragraph IA, it says the  
5 parties will meet and confer and submit a supplemental filing  
6 regarding limits on deposition, et cetera.

7 I'm just going to write in the order that will be  
8 done within 60 days of entry of the order regarding  
9 deposition protocol.

10 Does that work for the plaintiff?

11 MS. BOJEDLA: Yes. That works for us.

12 THE COURT: Mr. Hittinger, can you live with that?

13 MR. HITTINGER: Yes. Because we were waiting for  
14 the disclosures to be made and that will be made within that  
15 time period and we'll be able to report to the Court in 60  
16 days, yes.

17 THE COURT: Page 2, footnote 2, second  
18 sentence: If an individual has been employed by more than one  
19 defendant during the relevant time period defined in the  
20 pretrial scheduling order -- I don't know what you're  
21 referring to. You mean the case management order? What's  
22 the pretrial scheduling order in footnote 2? Ms. --  
23 Plaintiff, Ms. Bojedla?

24 MS. BOJEDLA: Your Honor, I apologize. That may  
25 be a remnant from when we had more fulsome description of the

1 case in the 26F statement. Perhaps we can amend that  
2 language so that --

3 THE COURT: Let's go ahead and correct it now  
4 because I'm going to enter this today.

5 MS. BOJEDLA: Okay. I think -- as for Plaintiff,  
6 I think we would be okay to say during the relevant time  
7 period as defined in the -- I haven't actually looked back to  
8 see if we define a relevant time period in the complaint or  
9 not. I'm not sure if --

10 THE COURT: I'm sorry. You're talking too fast  
11 and it's -- it's not coming across clearly.

12 MS. BOJEDLA: Apologies, Your Honor. I'm --

13 THE COURT: Why don't we just say if an individual  
14 has been employed by more than one defendant during the  
15 relevant time period then the parties shall meet and confer  
16 as to how such individuals shall be counted for purposes of  
17 any per party deposition limits but in no event shall a  
18 single deposition count towards more than one defendant's per  
19 party deposition. So I'm just eliminating this "defined in  
20 the pretrial order."

21 MS. BOJEDLA: Your Honor, I think that makes the  
22 most sense. And apologies again.

23 THE COURT: No problem.

24 Oh, I'm sorry. Is that okay, Mr. Medlock or  
25 Mr. Hittinger?

1 MR. HITTINGER: Yes, that's fine with the  
2 defendants, Your Honor.

3 THE COURT: And then page 4, IIIA, the third  
4 complete sentence. I just changed it that "the parties may  
5 file a motion to request additional time to negotiate this  
6 provision regarding location and scheduling."

7 Does that work for the plaintiff?

8 MS. BOJEDLA: Yes, Your Honor.

9 THE COURT: And Mr. Hittinger, Mr. Medlock?

10 MR. HITTINGER. Yes, that works for the  
11 defendants, Your Honor.

12 THE COURT: All right. Thank you.

13 Okay. That takes care of the order regarding  
14 deposition protocol.

15 Then that -- and I don't -- I don't have any  
16 changes to the stipulation and order on expert discovery.

17 So I think the Court -- I'm ready to enter  
18 everything except your protective order. And I think I gave  
19 you all until the 20th to get back with me on that. Is that  
20 accurate, Ms. Bojedla, from the plaintiffs' standpoint?

21 MS. BOJEDLA: I believe the date is accurate and I  
22 believe we are almost completely resolved on that order.

23 THE COURT: Okay.

24 Okay. Anything else on these -- anything else we  
25 need to discuss other than the outstanding protective order

1 from the plaintiffs' perspective?

2 MR. COUGHLIN: Your Honor, this is Pat Coughlin.  
3 You had asked about -- a couple times about a status  
4 conference order, an ongoing kind of living document. And  
5 Mr. Srinivasan and I have been discussing it. And I think  
6 we've kind of come up with a template. What we were waiting  
7 for is to get -- this is a -- the bulk of these orders  
8 entered. So we'll wait until after the 20th and maybe file  
9 on March 1st the -- kind of a living running status  
10 conference that will -- that will update every month as  
11 things change or things are on the docket and somebody can  
12 follow the progress of the case.

13 THE COURT: Okay. So you're saying you're going  
14 to submit the first draft of that on March the 1st?

15 MR. COUGHLIN: That's right, Your Honor.

16 THE COURT: That works for the defendant,  
17 Mr. Srinivasan?

18 MR. SRINIVASAN: It does, Your Honor. Thank you.

19 THE COURT: Okay. Anything else, Mr. Coughlin or  
20 anybody else on the plaintiffs' side?

21 MS. BOJEDLA: Your Honor, would it be helpful for  
22 us to send you the Word versions of these proposed orders, or  
23 are your clerks all set?

24 THE COURT: No. I think we've already -- we've  
25 already converted them to our set. So I'm good. Thank you,

1    though.

2                   MS. BOJEDLA:   Thank you.

3                   THE COURT:   But going forward -- but going  
4 forward, it would be really helpful if you would email that  
5 to Melissa Seay.  And I think her full email address is on  
6 the website for this case.

7                   MS. BOJEDLA:  We absolutely (indiscernible).

8                   Thank you.

9                   THE COURT:  Anything else on the defense side,  
10 Mr. Srinivasan, or Hittinger or Medlock, or anybody?

11                   UNIDENTIFIED SPEAKER:  No, sir.

12                   UNIDENTIFIED SPEAKER:  Nothing.

13                   THE COURT:  Well, thank you all, and we'll get  
14 these entered today.

15                   Take care and have a good weekend.  Happy  
16 President's Day.

17                   (Court adjourned.)

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1 REPORTER'S CERTIFICATE.

2  
3 I, Lise S. Matthews, Official Court Reporter for  
4 the United States District Court for the Middle District of  
5 Tennessee, with offices at Nashville, do hereby certify:

6 That I reported on the Stenograph machine the  
7 proceedings held in open court on February 16, 2024, in the  
8 matter of IN RE: Realpage, Inc., Rental Software Antitrust  
9 Litigation (No. II), et al., Case No. 3:23-MD-03071; that  
10 said proceedings in connection with the hearing were reduced  
11 to typewritten form by me; and that the foregoing transcript  
12 (pages 1 through 16) is a true and accurate record of said  
13 proceedings.

14 This the 22nd day of April, 2024.

15  
16 /s/ Lise S. Matthews  
17 LISE S. MATTHEWS, RMR, CRR, CRC  
18 Official Court Reporter  
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